

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No. EB-04-IH-0271
)	
AT&T Corp.)	Acct. No. 200532080021
)	
Compliance with Rules Regarding)	FRN: 0005937974
Thousands-Block Number Pooling)	

ORDER

Adopted: December 21, 2004

Released: December 21, 2004

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an investigation into possible violations by AT&T Corp. (“AT&T”) of sections 52.15 and 52.20(c) of the Commission’s rules,¹ with respect to thousands-block number pooling in certain rate centers.²

2. The Enforcement Bureau (“Bureau”) and AT&T have negotiated the terms of a Consent Decree that would terminate the Bureau’s investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree and terminating the investigation.

4. Based on the record before us we conclude that there are no substantial or material questions of fact with respect to this matter as to whether AT&T possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and the authority delegated by section 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that the attached Consent Decree IS ADOPTED.

¹ 47 C.F.R. §§ 52.15, 52.20(c).

² Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to David Dorman, Chief Executive Officer, AT&T Corp. (September 29, 2004).

6. IT IS FURTHER ORDERED that the above captioned investigation IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

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Compliance with Rules Regarding Thousands-Block Number Pooling)	FRN: 0005937974
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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (the “FCC” or the “Commission”) and AT&T Corp. (“AT&T”), by their authorized representatives, hereby enter into this Consent Decree to resolve an investigation (the “Investigation”) by the Bureau regarding alleged violation by AT&T of Sections 52.15 and 52.20(c) of the Commission’s rules,³ with respect to thousands-block number pooling in certain rate centers. The Investigation was undertaken pursuant to sections 4(i), 4(j), 218, and 403 of the Communications Act.⁴

II. DEFINITIONS

2. For the Purposes of this Consent Decree, the following definitions shall apply:

- (a) “Adopting Order” means an Order of the Bureau adopting the terms and conditions of this Consent Decree without change, addition or modification.
- (b) “AT&T” or the “Company” means AT&T Corp., and any affiliate, d/b/a, predecessor-in-interest, parent companies and any direct or indirect subsidiaries of such parent companies, or other affiliated companies or businesses, and their successors and assigns.
- (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
- (d) “Communications Act” or “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
- (e) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (f) The “FCC” or the “Commission” means the Federal Communications Commission.

³ 47 C.F.R. §§ 52.15, 52.20(c).

⁴ 47 U.S.C. §§ 154(i), 154(j), 218 and 403.

(g) “Investigation” means the investigation commenced by the Bureau’s Letter of Inquiry dated September 29, 2004, regarding AT&T’s alleged noncompliance with Sections 52.15 and 52.20(c) of the Commission’s rules.

(h) “Parties” means AT&T and the Bureau.

III. BACKGROUND

3. On September 29, 2004, the Enforcement Bureau issued a Letter of Inquiry (“LOI”) to AT&T and initiated an investigation concerning AT&T’s compliance with thousands-block number pooling regulations, and requested that AT&T provide certain documents and other information with respect to 113 specifically identified rate centers.⁵ AT&T submitted its initial response to the LOI on October 25, 2004, and filed a supplement to that response on November 5, 2004.⁶

4. Section 52.20(b) of the Commission’s rules provides that all carriers, except those exempted by the Commission, must participate in thousands-block number pooling where the Commission implements such a system, and in accordance with a Commission-established framework and schedule.⁷ Section 52.15 of the Commission’s rules provides, *inter alia*, that in areas where thousands-block numbering pooling has been implemented, telecommunications carriers that are required to participate must submit to the North American Numbering Plan Administrator (“NANPA”) semi-annual forecasts of their yearly numbering resource requirements at the thousands-block level for each rate center.⁸

5. AT&T states that it submitted a Numbering Resource Utilization and Forecast (“NRUF”) Report, FCC Form 502, at the thousands-block level to the NANPA for the reporting periods ending December 31, 2003 and June 30, 2004 for each rate center in which AT&T has numbering resources. AT&T also states that the thousands-block forecast data was subsequently entered into the Pooling Administration System (“PAS”) and thereby submitted to the Pooling Administrator (“PA”).⁹

6. Section 52.20(c)(1) of the Commission’s rules requires all service providers that are required to participate in thousands-block number pooling to donate thousands-blocks with ten percent or less contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.¹⁰ Notwithstanding the contamination level of the block, the Commission allows

⁵ See Letter dated September 29, 2004 from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to David Dorman, AT&T Corp (“September 29 LOI”).

⁶ See Letter dated October 25, 2004 from Richard A. Rocchini, Senior Attorney, AT&T to Mika Savir, Attorney, Investigations and Hearings Division, Enforcement Bureau, FCC (“AT&T Response”); Letter dated November 5, 2004 from Richard A. Rocchini, Senior Attorney, AT&T to Mika Savir, Attorney, Investigations and Hearings Division, Enforcement Bureau, FCC (“AT&T Supplement”).

⁷ 47 C.F.R. § 52.20(b).

⁸ 47 C.F.R. § 52.15.

⁹ See AT&T Response at 1-2 and Exhibits A and B. AT&T states that, based on its understanding of appropriate practices, in submitting its thousands-number block forecast to the PA, in most cases, it placed a zero in those rate centers in a Numbering Plan Area (“NPA”) in which it did not expect to need numbers, and left remaining rate centers in such NPAs blank. AT&T Response at 2. AT&T states that the PA apparently interpreted this process as a failure to submit a report for those rate centers. AT&T states that it has amended its PAS input for the reporting period to comply with the PA’s acceptable format, and submitted revised data to the PA on October 25, 2004. *Id.* at 2-3.

¹⁰ 47 C.F.R. § 52.20(c)(1). In the 310 and 909 area codes in California, the contamination level is twenty-five percent or less. See *Numbering Resources Optimization, Petition of the California Public Utilities Commission for*

service providers to retain at least one thousands-block per rate center as an initial or footprint block, as well as enough thousands-blocks to meet their six-month projection forecasts for the rate center.¹¹ The Commission otherwise allows service providers to maintain an inventory of telephone numbers to meet their needs for six months.¹² Section 52.15(g)(3)(iii) of the Commission's rules requires service providers to maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which they provide telecommunications service.¹³

7. AT&T states that, following the commencement of Commission-mandated number pooling in 2001, it conducted an inventory of its numbers to determine its initial six-month numbering inventory requirements for each NPA entering the pool.¹⁴ AT&T further states that it has subsequently continued to review its inventory requirements and has donated to the numbering pool a total of 521 thousands-blocks of numbers in 58 of the rate centers identified in Bureau's LOI.¹⁵ However, in response to the Bureau's investigation of its practices, AT&T has confirmed its willingness to review and revise its inventory management methods.¹⁶

IV. AGREEMENT

8. AT&T agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

9. AT&T represents and warrants that it is the properly named party to this Consent Decree and is solvent and has sufficient funds available to meet fully all financial and other obligations set forth herein. AT&T further represents and warrants that it has caused this Consent Decree to be executed by its authorized representative, as a true act and deed, as of the date affixed next to said representative's signature. Said representative and AT&T respectively affirm and warrant that said representative is acting in his/her capacity and within his/her authority as a corporate officer of AT&T, and on behalf of AT&T and that by his/her signature said representative is binding AT&T to the terms and conditions of this Consent Decree.

10. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding regarding any compliance or noncompliance with the requirements of the Act and the Commission's orders and rules. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, AT&T does not admit or deny any wrongdoing, non-compliance, or violation of the Act or the Commission rules in connection with the matters that are the subject of this Consent Decree.

(...continued from previous page)

Waiver of the Federal Communications Commission Contamination Threshold Rule, Order, 18 FCC Rcd 16860 (2003).

¹¹ 47 C.F.R. §52.20(c)(2); *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7661-61 ¶ 191 (2000) (“*NRO Order*”).

¹² 47 C.F.R. § 52.20(c)(2); *NRO Order*, 15 FCC Rcd at 7660 ¶ 189.

¹³ 47 C.F.R. § 52.15(g)(3)(iii).

¹⁴ See AT&T Response at 3 and Exhibit D.

¹⁵ See *id* at 4 and Exhibit E; AT&T Supplement at 3.

¹⁶ See AT&T Response at 3; AT&T Supplement at 5.

11. In consideration for the termination of the Investigation in accordance with the terms of this Consent Decree, AT&T shall make a voluntary payment to the United States Treasury, without further protest or recourse to a trial *de novo*, in the amount of one hundred thousand dollars (\$100,000.00) within ten (10) business days after the Effective Date of the Adopting Order. The payment may be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Acct. No. and FRN No. referenced above. Payment by check or money order must be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL, 60673-7482. Payment by overnight mail must be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer must be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

12. In order to resolve and terminate the Investigation, and to ensure compliance with the Commission's thousands-block number pooling rules, AT&T shall implement the actions described below, *i.e.*, a Compliance Plan:

a) Forecasts & Reports. AT&T shall file telephone numbering forecasts and reports in compliance with the Industry Numbering Committee's "Thousands-Block Number (NXX-X) Pooling Administration Guidelines" (and any amendments thereto or replacement thereof), in a form satisfactory to the PA.

b) Forecasting Procedures. By no later than June 30, 2005, AT&T shall establish and maintain procedures to:

- 1) Generate a telephone number level forecast every six months by rate center for all rate centers in which AT&T holds numbering resources and is required to submit forecasts at the thousands-block level,
- 2) Generate thousands-block level forecasts every six months by rate center for all such rate centers,
- 3) Compare the telephone number level forecast by rate center with its thousands-block inventory in each such rate center, and
- 4) Donate any excess block inventory identified by the measures described above, net of any blocks that may be retained as "footprint blocks", or that may be retained due to contamination, customer-specific number assignments or other exceptions authorized by the Commission.

c) Initial Donations. AT&T shall review its number inventories in each of the rate centers identified by the Bureau in the September 29 LOI, and return to the pool, on or before December 31, 2004, any excess inventory from the rate centers identified in the September 29 LOI:

d) Donations. AT&T shall review its numbering inventories for the remaining rate centers in which AT&T holds numbering resources and is required to submit forecasts at the thousands-block level and return any excess inventory to the pool:

- 1) Commencing with an initial donation of numbers on or before January 7, 2005,
- 2) Following with donations each week thereafter of any excess inventory that is identified, and

3) Completing the review and donation process on or before June 30, 2005 (the entire period from the Effective Date until July 1, 2005 constituting the "Donation Period").

e) Certification of Donations. AT&T shall certify in writing to the Bureau its compliance with paragraphs 12(c) and 12(d) on January 15, 2005, April 1, 2005, and July 1, 2005.

f) Compliance Manual. AT&T shall within sixty days of the Effective Date develop and update as necessary a Compliance Manual on thousands-block number pooling. AT&T personnel shall have ready access to the Compliance Manual and must follow the procedures contained in it. The manual shall, among other things, describe the North American Numbering Plan and Thousands-Block Number Pooling Administration Guidelines and how they apply to AT&T.

g) Compliance Training Program. AT&T shall within sixty days of the Effective Date establish a thousands-block number pooling compliance training program for employees who engage in thousands-block number pooling activities. AT&T shall conduct training sessions at least annually to ensure compliance with the Act and the FCC's policies and rules, and, for any new employee, within 30 days of employment.

h) Designated Compliance Officer. AT&T shall designate a Compliance Officer, within thirty days of the Effective Date, to serve as a point of contact for keeping responsible personnel informed of the Commission's and the Pooling Administrator's thousands-block number pooling requirements. In addition, the Designated Compliance Officer shall review the Compliance Plan annually to ensure that it is maintained in a proper manner and continues to address the objectives set forth herein.

i) Termination. Except as otherwise stated, the requirements of paragraph 12 shall expire twenty-four months from the Effective Date.

13. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation. In express reliance on the covenants and representations contained herein, and in order to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of this Investigation, AT&T agrees to the terms, conditions, and procedures contained herein. The Bureau agrees that, in the absence of new material evidence related to this matter, it will not use the facts developed in the Investigation or the existence of the Consent Decree, to initiate, on its own motion, any new proceedings, formal or informal, or take any actions on its own motion against AT&T concerning the matters that were the subject of this Investigation. In addition, the Bureau will not, on its own motion, seek any administrative or other penalties from AT&T concerning AT&T's compliance with the Commission's orders and regulations regarding reporting, forecasting and donation of numbers for its activities during the Donation Period, as long as AT&T complies with the requirements set forth in subparagraphs 12(a), 12(b), 12(c), and 12(d) above. Nothing in this paragraph shall limit the Commission's authority to enforce this Consent Decree in accordance with its terms, nor shall anything in this Consent Decree limit the Commission's authority to consider and adjudicate any formal complaint that may be filed pursuant to section 208 of the Act, 47 U.S.C. Section 208, and to take any action in response to such complaint.

14. Except as provided herein, nothing in this Consent Decree shall alter AT&T's obligation to comply with the Act and with the Commission's rules and orders.

15. AT&T waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Order adopts the Consent Decree without change, addition, or modification.

16. AT&T’s decision to enter into this Consent Decree is expressly contingent upon the Bureau’s issuance of an Adopting Order.

17. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

18. The Parties also agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which AT&T does not consent) that provision will be superseded by such Commission rule or order.

19. By this Consent Decree, AT&T does not waive or alter its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information. The status of materials prepared for, reviews made and discussions held in the preparation for and implementation of AT&T’s compliance efforts under this Consent Decree, which would otherwise be privileged or confidential, are not altered by the execution or implementation of the terms of this Consent Decree, and no waiver of such privileges is made by this Consent Decree. Nothing in this Consent Decree shall be deemed to prejudice AT&T’s rights to seek exemption from disclosure pursuant to the Freedom of Information Act and the Commission’s implementing regulations for documents provided by AT&T to the Commission, or for AT&T to contest any request for disclosure of agency records relating to the subject of this Consent Decree.

20. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither AT&T nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and AT&T and the Commission will waive any statutory right to a trial *de novo* with respect to the issuance of the Adopting Order and shall consent to a judgment incorporating the terms of this Consent Decree.

21. AT&T agrees that any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission, or its delegated authority, to exercise any rights or remedies attendant to the enforcement of a Commission order.

22. This Consent Decree may be signed in counterparts.

For: AT&T Corp.

Date

Hossein Eslambolchi
President – AT&T Global Networking Technology Services
AT&T CTO & CIO

For: Enforcement Bureau
Federal Communications Commission

Date

David H. Solomon
Chief, Enforcement Bureau